

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

RODERICK BO JACKSON,

:

Petitioner,

:

VS.

:

NO. 5:24-cv-230-MTT-CHW

:

WILLIAM DANFORTH, *et al.*,

:

:

Respondents.

:

ORDER

Petitioner Roderick Bo Jackson, a prisoner confined in Washington State Prison in Davisboro, Georgia, filed a *pro se* “Notice of Removal of Action under Title 28 U.S.C. § 1446 & Georgia Constitutional Article 6, Sec. 9, Para. 4.” ECF No. 1. Jackson has neither paid the filing fee nor moved to proceed *in forma pauperis*. Because it is clear from the face of Jackson’s Notice of Removal that he may not remove his pending state habeas action to this Court, Jackson will be allowed to proceed without prepayment of the filing fee for purposes of this denial alone.

Jackson has a habeas corpus petition pending in the Superior Court of Coffee County.¹ He seeks to remove this action to federal court.

¹ In his Notice of Removal, Jackson fails to specify in which state court his habeas petition is pending. He states that he filed a habeas corpus petition on June 5, 2019, a scheduled hearing was postponed due to COVID-19, Judge Kelly Brooks held a hearing on January 12, 2021, and no ruling has been issued. ECF No. 1 at 1-2. Jackson previously filed a federal habeas petition in this Court, which was transferred to the United States District Court for the Southern District of Georgia. See ECF No. 3 in *Jackson v. Nelson*,

The federal removal statute provides in relevant part:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed *by the defendant or the defendants*, to the district court of the United States for the district and division embracing the place where such action is pending.

28 U.S.C. § 1441(a) (emphasis added). Additionally, 28 U.S.C. § 1446 provides that the “*defendant or defendants* desiring to remove any civil action from the State Court shall file . . . a notice of removal.” 28 U.S.C. § 1446(a) (emphasis added).

As the petitioner in the state court proceeding, Jackson has no authority to remove his case to the federal district court. Removal is available only to defendants. *Marshall v. Danforth*, No. 4:22-cv-89, 2022 WL 1508971, at *1 (S.D. Ga. May 12, 2022) (collecting cases).

Accordingly, “Jackson’s Notice of Removal of Action under Title 28 U.S.C. § 1446 & Georgia Constitutional Article 6, Sec. 9, Para. 4” is hereby **DENIED** and this case is

4:22-cv-161-CDL-MSH (M.D. Ga. Oct. 25, 2025). In that 28 U.S.C. § 2254 petition, Jackson complained that he filed a habeas corpus petition in the Superior Court of Coffee County on June 5, 2019 contesting his Chatham County conviction, a scheduled hearing was postponed due to COVID-19, Judge Kelly Brooks held a hearing on January 12, 2021, and no ruling had been issued. See ECF No. 1 at 1, 13-14 in *Jackson v. Nelson*, 4:22-cv-250-RSB-CLR (S.D. Ga. Oct. 21, 2022). The United States District Court for the Southern District of Georgia dismissed that action without prejudice for failure to exhaust available state remedies. See ECF No. 16 in *Jackson v. Nelson*, 4:22-cv-250-RSB-CLR (S.D. Ga. Apr. 20, 2023). Obviously, Jackson seeks to remove the same state habeas petition, which is still pending in the Superior Court of Coffee County. *McBride v. Sharpe*, 25 F.3d 962, 969 (11th Cir. 1994) (stating that court may take judicial notice of its own records in habeas proceedings); *Lozman v. City of Riviera Beach, Fla.*, 713 F.3d 1066, 1075 n.9 (11th Cir. 2013) (stating that court may take judicial notice of public records, such as filings in other judicial proceedings).

REMANDED to the Superior Court of Coffee County.²

SO ORDERED, this 22nd day of July, 2024.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

² The Court notes that Jackson filed only a Notice of Removal. ECF No. 1. No documents from the pending state action have been filed in this Court.